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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,002	10/16/2003	Tuan Ta	ION1120-1	7453
44654	7590	10/18/2007	EXAMINER	
SPRINKLE IP LAW GROUP			COULTER, KENNETH R	
1301 W. 25TH STREET				
SUITE 408				
AUSTIN, TX 78705				
			ART UNIT	PAPER NUMBER
			2141	
			MAIL DATE	DELIVERY MODE
			10/18/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/687,002

Applicant(s)

TA ET AL.

Examiner

Kenneth R. Coulter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. Claims 1 – 60 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.
2. The term “network bandwidth”, newly incorporated into the claim language, is not properly defined in the specification.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1 – 60 are rejected under 35 U.S.C. 102(e) as being anticipated by Dobbins et al. (U.S. Pat. Pub. No. 2002/0029260) (Directory-Enabled Intelligent Broadband Service Switch).

4.1 Regarding claim 1, Dobbins discloses a device for allocating network bandwidth on a per user basis comprising:

- a processor (Fig. 8; paragraph 80);
- a first network interface coupled to the processor (Figs. 2, 8; Abstract);
- a second network interface coupled to the processor (Figs. 2, 8; Abstract);
- a storage medium accessible by the processor (Fig. 9; Abstract; paragraph 9);
- a set of computer instructions stored on the storage medium, executable by the processor (Figs. 2, 8; paragraph 80) to:

- retrieve a set of user profiles, wherein each user profile corresponds to a specific user in a set of users (paragraph 72 “individual policies”);

- establish at least one network bandwidth limit for each user in the set of users based on the corresponding user profile for that user (paragraph 72 “ceiling on available bandwidth”);

- for each user in the set of users, regulate network bandwidth usage associated with that user based on the at least one network bandwidth limit established for that user (Abstract; paragraph 72); and

- update the at least one network bandwidth limit for at least one user from the set of users (Fig. 5; Abstract; paragraph 72).

4.2 Per claim 2, Dobbins teaches the device of claim 1, wherein the computer instructions are further executable to dynamically update the at least one network bandwidth limit based on a new user profile (Fig. 5; Abstract; paragraph 72).

4.3 Regarding claim 3, Dobbins discloses the device of claim 1, wherein the computer instructions are further executable to dynamically update the at least one network bandwidth limit based on a **new user** connecting to the device (paragraph 24).

4.4 Per claim 4, Dobbins teaches the device of claim 1, wherein the computer instructions are further executable to dynamically update the at least one network bandwidth limit based on a time of day (paragraph 27; paragraph 72 "time-of-day limitations").

4.5 Regarding claim 5, Dobbins discloses the device of claim 1, wherein the computer instructions are further executable to dynamically update the at least one network bandwidth limit based on utilization averaging for the corresponding user (paragraph 43 "service specific statistics gathering process").

4.6 Per claim 6, Dobbins teaches the device of claim 1, wherein the computer instructions are further executable to dynamically update the at least one network bandwidth limit by modifying a traffic control rule containing the at least one network

bandwidth limit (Abstract; paragraph 72).

4.7 Regarding claim 7, Dobbins discloses the device of claim 1, wherein the computer instructions are further executable to meter network bandwidth usage on a per user basis (Abstract; paragraph 72).

4.8 Per claim 8, Dobbins teaches the device of claim 1, wherein the computer instructions are further executable to establish a traffic control rule for each user containing the at least one network bandwidth limit for that user (Abstract; paragraphs 43, 72).

4.9 Regarding claim 9, Dobbins discloses the device of claim 8, wherein the computer instructions are further executable to dynamically update the at least one network bandwidth limit for the at least one user by updating the traffic control rule for the at least one user (Abstract; paragraphs 24, 72).

4.10 Per claim 10, Dobbins teaches the device of claim 9, wherein the computer instructions are further executable to access each traffic control rule from an IP table based on an indicator associated with each traffic control rule (Fig. 2; paragraph 31).

4.11 Regarding claim 11, Dobbins discloses the device of claim 10, wherein the indicator comprises a MAC address (Fig. 2; paragraphs 31, 33).

4.12 Per claim 12, Dobbins teaches the device of claim 10, wherein the indicator comprises an IP address (Fig. 2; paragraphs 31, 33).

4.13 Regarding claim 13, Dobbins discloses the device of claim 1, wherein the computer instructions are further executable to: receive a network communication from a first user from the set of users over the first network interface destined for a network connected to the second network interface; access a traffic control rule for the first user that includes an upload network bandwidth limit for the first user; and determine if the network communication causes the upload network bandwidth limit to be exceeded (Abstract; paragraphs 24, 72).

4.14 Per claim 14, Dobbins teaches the device of claim 13, wherein the computer instructions are further executable to receive the network communication from the user over a wireless network (paragraphs 26, 81).

4.15 Regarding claim 15, Dobbins discloses the device of claim 1, wherein the computer instructions are further executable to: receive a network communication over a network connected to the second network interface destined for a first user from the set of users; access a traffic control rule for the first user that includes a download network bandwidth limit for the first user; and determine if the network communication causes the upload network bandwidth limit to be exceeded (Abstract; paragraphs 24,

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72).

4.16 Per claim 16, Dobbins teaches the device of claim 15, wherein the computer instructions are further executable to receive the network communication from the user over a wireless network (paragraphs 26, 81).

4.17 Regarding claim 17, Dobbins discloses the device of claim 1, wherein the computer instructions are further executable to monitor sessions on per user basis (Abstract; paragraph 72).

4.18 Per claim 18, Dobbins teaches the device of claim 1, wherein the computer instructions are further executable to: prioritize network bandwidth allocations for network applications for at least one user based the corresponding user profile for that user (Abstract; paragraphs 24, 72).

4.19 Regarding claims 19 – 60, the rejection of claims 1 – 18 under 35 USC 102(e) (paragraphs 4.1 – 4.18 above) applies fully.

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1 – 60 have been considered but are moot in view of the new ground(s) of rejection.



***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth R. Coulter whose telephone number is 571 272-3879. The examiner can normally be reached on M - F, 7:30 am - 4 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

krc

KENNETH R. COULTER  
PRIMARY EXAMINER

